

Thurman King v. City of Rockford, et al.

U.S.D.C. Western District of Michigan Case No. 1:21-cv-259

Honorable Jane M. Beckering

Plaintiff's Response in Opposition to Defendants' Motion for Summary Judgment

Exhibit 9

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THURMAN KING,

Plaintiff,

vs.

Case No. 1:21-cv-259

Hon. Paul L. Maloney

CITY OF ROCKFORD; ROCKFORD

DEPARTMENT OF PUBLIC SAFETY;

OFFICER ZACHARY ABBATE (individually);

and OFFICER JASON BRADLEY (individually),

Defendants.

VIDEOTAPED DEPOSITION

DEPONENT: GLENN DAVID ROBINSON

DATE: Monday, January 3, 2022

TIME: 2:13 p.m. EST

LOCATION: Via Zoom videoconference

REPORTER: Elizabeth G. LaBarge, CSR-4467

JOB NO: 17172

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chief.

Q You have been the chief of the Rockford Police
Department since February of 2019?

A Yes.

Q And you were the chief on March 20th, 2019, the date of
the incident we're here for, correct?

A Yes.

Q And as far as the chain of command then on March 20th,
2019, did you report up to anyone in Rockford?

A Yes.

Q Who would that have been?

A Dave Jones.

Q And that's the same David Jones that was the prior
either chief or director of Public Safety?

A Yes.

Q What -- on March -- in March of 2019, what was David
Jones's position?

A Director of Public Safety.

Q As chief of the Rockford Police Department -- first of
all, do you know, is there a written job description
of -- of that position?

A The best I can recall, I don't believe so at the time.

Q In March of 2019, you don't believe there was a
written --

A I don't believe that --

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1 (inaudible) --

2 MR. CALLAHAN: Can I -- I've got an objection on
3 the basis of form. Are you talking about written --

4 MR. DREW: Yeah, let me --

5 MR. CALLAHAN: -- policies?

6 MR. DREW: -- let me -- let me explain something,
7 that's a good objection.

8 BY MR. DREW:

9 Q When I say practices or procedures, I'll be talking
10 about things that are done as a custom, but may not be
11 in writing. If it's a procedure, I will be referring to
12 a written procedure; if it's a policy, I will be
13 referring to a written policy, I think, unless I try to
14 clean it up otherwise. So let me --

15 MR. CALLAHAN: Okay, thank you.

16 MR. DREW: Yeah.

17 BY MR. DREW:

18 Q As a lieutenant, were you involved in any way with the
19 review of -- of policies or procedures, the written
20 policies or procedures?

21 A To some extent, yes.

22 Q You -- and as chief, once you became chief in February
23 of 2019 to the present, have you been involved in the
24 policies and procedures, the written policies and
25 procedures of the Rockford Police Department?

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1 Robinson, watched the video of the incident"? Yeah,
2 okay.

3 BY MR. DREW:

4 Q You indicated, Chief, in this report that, quote:

5 "Looking at the video which I watch
6 several times you could see brake
7 light on the car and the car
8 slowing down but I couldn't tell
9 from the video if the car comes to
10 a complete stop or not."

11 Did I read that accurately?

12 A Correct.

13 Q And that was the wording you chose to put in this report
14 after reviewing the video; is that correct?

15 A Correct.

16 MR. DREW: Kathryn, I need you to exit the
17 screen-share because I'm going to try to pull up the
18 video. And what I'm going to do, it is huge, counsel,
19 I'm going to ask that it be marked as Exhibit 3. I
20 don't know how we end up transmitting it or if we can,
21 but...

22 (Exhibit 3 marked for identification.)

23 MR. DREW: Let me pull this up. Just for the
24 record, the video I'm going to try to pull up, because
25 there's two of them, is the one ending in 2001i200. I

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1 two reasons: One, I stopped at the stop sign; and two,
2 my light was on, correct?

3 A He did not say that. He talked about the license plate
4 being on and the he stopped for the stop sign.

5 Q You're aware, aren't you, as chief of police of there
6 being a lot of discussion about stopping
7 African-Americans, coming up with your taillight is out
8 or bogus reasons to stop and then search them and try to
9 find something? And I'm not saying that -- you're aware
10 of that being an issue in the community of policing and
11 you were aware of that in March of 2019, that those were
12 issues, correct?

13 MR. CALLAHAN: Objection, form and foundation.

14 BY MR. DREW:

15 Q You may answer.

16 MR. CALLAHAN: If you understand the question.

17 THE WITNESS: Oh.

18 A Yes.

19 BY MR. DREW:

20 Q Is it your testimony, sir, that you did not look at the
21 video to determine whether your officer was accurate in
22 stopping him, claiming that his license plate light was
23 out, you didn't look for that?

24 A Yes, I did look for that at the video.

25 Q And I think you've indicated that you did look at the

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1 video with the intent of determining whether Mr. King
2 had stopped at the stop sign, since your officer was
3 indicating that he didn't, correct?

4 A Correct.

5 MR. CALLAHAN: Steve, can we take a little break?

6 MR. DREW: Was there an answer to that question?

7 A I said correct, yes, I looked at the video for that.

8 MR. DREW: Yes. How long do you want? The record
9 should reflect --

10 MR. CALLAHAN: (Inaudible).

11 MR. DREW: I'm sorry. Go ahead.

12 MR. CALLAHAN: Five minutes, Steve.

13 MR. DREW: Okay.

14 VIDEOGRAPHER: Off the record at 3:26 p.m.

15 (Whereupon a break was taken.)

16 VIDEOGRAPHER: We are back on the record at
17 3:33 p.m.

18 MR. DREW: Thank you.

19 BY MR. DREW:

20 Q Chief Robinson, after you reviewed the videos, you had
21 the authority as chief to indicate that this was a false
22 stop or an unconstitutional stop and to halt it at that
23 point; is that correct?

24 A Yes.

25 Q And you had the ability to void the arrest and apologize

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1 to Mr. King for your officer's actions; is that correct?

2 A Correct.

3 Q I'm going to, while I have the video up, and I'll take
4 it off in a minute, but I'm going to show the -- I'll
5 start it again, and this is Exhibit 5, I think, and I'm
6 going to show it as he makes his -- puts his turn signal
7 on, makes his turn, and then turns left into his
8 driveway. And the reason I'm showing it to you is I
9 want to ask you reviewing this, did you see -- we don't
10 need to talk about your thoughts about the stop sign and
11 whether he stopped or not, but did you see any evidence
12 of erratic driving, such would be probable cause for
13 driving under the influence of alcohol or drugs? So I'm
14 going to show it to you from the time -- the beginning
15 of it until he drives into his driveway and then I'm
16 going to ask you that question. So we're showing
17 Exhibit 5 starting at 22:56:04 seconds and it will go
18 to -- and I'll identify it where we stop it.

19 COURT REPORTER: Excuse me. This is Exhibit 4,
20 Mr. Drew.

21 MR. DREW: No, no, this is Exhibit 5. Exhibit 5 is
22 the one with the bright one, it's 1i100, or maybe I'm
23 wrong. Wait a minute.

24 MS. BOYD: Exhibit 1, Exhibit 2, and then 3 and 4.

25 MR. DREW: Oh, I'm sorry. That's why she's here.

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1 chief, that if your officer lied about the reason for
2 the stop, that he really -- the license plate light
3 really was on, that he really did stop at the stop sign,
4 but lied to justify the stop, that that would be a
5 policy violation of your department?

6 A You're saying hypothetically?

7 Q Yes.

8 A That would be a violation, yes.

9 Q And I think you already said if he lies about it as to
10 the reason for the stop, the light was on, he did even
11 stop at the stop sign, that would be an unconstitutional
12 deprivation of his Fourth Amendment right, correct?

13 MR. CALLAHAN: Objection, foundation.

14 A Correct.

15 BY MR. DREW:

16 Q It ends by saying:

17 "After reviewing the incident, I do
18 not see any need for additional
19 training or revision of department
20 policies."

21 Did I read that correctly?

22 A Yes.

23 Q Was Officer Abbate disciplined at all for any aspect of
24 this encounter, including the traffic stop of Thurman
25 King?

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1 A No, he was not.

2 Q Was he counseled at all -- and I should have asked
3 it -- I'm assuming from your answer that he was not
4 given any written discipline, I didn't see anything in
5 his file, let me -- I'm talking too much.

6 I assume from your answer that Officer Abbate did
7 not -- that he received no written discipline arising
8 out of the events of March 20th, 2019, including the
9 initial traffic stop, correct?

10 A Not from me, no.

11 Q Well, you were the chief. Are you aware of him getting
12 any discipline from anybody?

13 A No, I am not.

14 Q Did he receive, to your knowledge, any unwritten
15 discipline, counseling, a look, anything in reference to
16 this stop, Officer Abbate?

17 A Not that I'm aware of.

18 Q At any time during your interaction with Mr. King either
19 on March 22nd or March 25th or March 26th, 2019, was he
20 at any time belligerent toward you, anything of that
21 nature?

22 A Mr. King?

23 Q Yes.

24 A No.

25 Q The 2010 census, are you generally familiar with

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1 it was ordered by Judge Benson, Judge Curt A. Benson
2 -- go up a little bit -- on July 2nd, 2019.

3 Does that refresh your recollection at all that
4 these charges were in total dismissed by the Court?

5 A I don't think I've ever seen this document, but I
6 understand that they were dismissed.

7 Q Did you have any conversations with the prosecuting
8 attorney or anyone in his office about the interest of
9 justice and why they were being dismissed?

10 A Yes.

11 Q And did you -- how many conversations did you have in
12 that regard?

13 A I believe just one.

14 Q And was that after it was dismissed or before?

15 A I don't remember.

16 Q Did you make any notes of that conversation?

17 A No.

18 Q Who did you have the conversation with, was it with
19 Chief Prosecutor Becker?

20 A Yes.

21 Q And tell me everything you remember about the
22 conversation, the context, when you did, when it was,
23 what was said?

24 A He called or -- I don't -- I don't remember if -- I
25 mean, he called or made contact, I don't know if it was

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1 through an email or a phone call and I had to call him
2 back, I don't remember how all that happened, but he had
3 called me and talked to me about this and said that they
4 were going to dismiss the charges.

5 Q Did he say anything about, "I looked at the video and it
6 sure looked like he stopped at it to me," or it looked
7 like his license plate was on, did he say anything about
8 that?

9 A He didn't say anything about the license plate light,
10 but said that he felt that it looked like he stopped for
11 the stop sign and that they were going to dismiss
12 charges.

13 Q Anything else you recall about that conversation?

14 A No, that was pretty much it, it was his discretion to do
15 that and that was the end of the conversation, and I
16 don't think I had any other contact with him about it.

17 MR. DREW: I'm about to get into another area. If
18 you want to take a break, this is a good time;
19 otherwise, I can keep going.

20 MR. CALLAHAN: Sure. About how much longer do you
21 anticipate, Steve?

22 MR. DREW: About an hour.

23 MR. CALLAHAN: Okay. Thank you very much. Okay.
24 How long did you want to take?

25 MR. DREW: Five, ten minutes, whatever you want to

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1 do.

2 MR. CALLAHAN: Okay. Yeah, I'll be back
3 about -- how about 5:15?

4 MR. DREW: All right. Is it that late already?

5 MR. CALLAHAN: Yeah.

6 MR. DREW: Yeah, that's fine. I didn't realize it
7 was that late.

8 MR. CALLAHAN: Okay.

9 MR. DREW: Okay, yeah, 5:15 is good. I mean, I'm
10 assuming we want to get this done today; he's going to
11 be gone for a long time.

12 MR. CALLAHAN: Yeah, let's get her done today.

13 MR. DREW: Okay. And I'm glad we're doing it today
14 and not the day before he's leaving. Okay.

15 VIDEOGRAPHER: Everyone ready to go off?

16 MR. CALLAHAN: Thank you.

17 MR. DREW: Yeah.

18 VIDEOGRAPHER: Off the record at 5 p.m.

19 (Whereupon a break was taken.)

20 VIDEOGRAPHER: We are back on the record at
21 5:17 p.m.

22 MR. DREW: Thank you.

23 BY MR. DREW:

24 Q Chief, it's my understanding that the City of Rockford
25 had a policy in place where officers were -- back in

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1 March of 2019 where officers were required to make two
2 traffic stops per shift; is that correct?

3 A Citizen contacts, yes. Although it's an average of the
4 whole month, just not per day, per se.

5 Q So it's your testimony that it wasn't two per shift, per
6 10-hour shift?

7 A Average two per shift, but if they didn't, they could
8 make more the following day or whatever.

9 Q So that it would average out to two per shift?

10 A Correct. And these --

11 Q And --

12 A -- are stops, not ticket related or anything like that.

13 Q Well, you called it citizen contacts, but it really was
14 a require -- a mandatory requirement that they make two
15 stops, traffic stops, per shift or an average of what,
16 30 per month?

17 A Not -- it just depends on how many shifts they work.

18 Q Okay.

19 A And if they're busy, they can state they're too busy and
20 they didn't have time, stuff like that.

21 Q But it was -- and this was an official policy of the
22 City of Rockford, correct?

23 A I guess I'd have to -- I don't remember if we put it in
24 policy form or it was more of a directive that we wanted
25 them to do to interact with the public more.

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1 Q This was a memo, as far as you're aware then, Chief,
2 that Mr. Abbate received on January 10th, 2019, an
3 email, correct?

4 A I might not have seen this, I wasn't chief at the time.

5 Q All right. Okay. And just so we complete the
6 identification of the exhibit, so then he responded two
7 days later on January 12th, 2019, to Aaron Sawyer at
8 6:06 a.m., Subject: Regarding December traffic stops,
9 and it said:

10 "Agree. 1 short."

11 Correct, did I read that correctly?

12 A That's what it says.

13 Q So traffic stops, not just citizen contacts, correct?

14 A It says:

15 "Agree. 1 short."

16 Yes.

17 Q But the concern is not just citizen contact, it's
18 minimum number of traffic stops for the shifts he worked
19 in December, correct?

20 A I'm assuming, it says December, yes.

21 Q That sounds to me like a quota for traffic stops; would
22 you agree?

23 A No.

24 Q A minimum -- you do not feel that doing a minimum of two
25 traffic stops per shift was a quota?

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1 A Well, I guess the number of stops, but we pertained it
2 more to the stops context, whatever you want to call it,
3 but it does not -- has nothing to do with writing
4 tickets. So I guess that's --

5 Q (Inaudible) part of this issue is why this man got
6 stopped and from our perspective why he lied about why
7 he stopped him. That's a statement, not a question.

8 MR. DREW: Can you pull up, please --

9 MR. CALLAHAN: Steve, you need to speak up a little
10 bit, you're not coming through very good here.

11 MR. DREW: I'll get closer. Will you pull up,
12 please --

13 MR. CALLAHAN: Thank you.

14 MR. DREW: -- 753 and 75 -- yeah, 753? That is a
15 counseling memo, we're going to mark it as Exhibit 14.

16 (Exhibit 14 marked for identification.)

17 BY MR. DREW:

18 Q Are you -- let me identify it first. It's a memo under
19 David Jones's letterhead, Rockford Department of Public
20 Safety, counseling memo dated February 4th, 2019,
21 Bates-stamped 753.

22 February 4th, 2019, is a month and a few days
23 before Mr. King was stopped; do you agree?

24 MR. CALLAHAN: Steve, you froze.

25 MR. DREW: Can you hear me? Am I frozen? Okay.

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1 THE WITNESS: I'm sorry.

2 A Correct.

3 BY MR. DREW:

4 Q Then, quote:

5 "In the event you are not able to
6 because you are too busy, you
7 understand how to document this on
8 your daily patrol log."

9 Correct?

10 A Correct.

11 Q I read that correctly?

12 A Yes.

13 Q Then you and Lieutenant Sawyer said, quote:

14 "It is important that you meet the
15 minimum performance standards to
16 avoid progressive discipline. We
17 expect your performance will
18 improve and we will be monitoring
19 it closely over the next several
20 months," end quote.

21 Did I read that correctly?

22 A Correct.

23 Q You were advising at that time on February 4th, 2019,
24 that you were going to be looking at Officer Abbate's
25 traffic stops very closely over the next several months,

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1 including March 20th, 2019, when he stopped Mr. King,
2 correct?

3 A You're using "very closely." We monitor everybody's
4 stops, so that's what we'd be doing.

5 Q Well, you told him that, in essence, if you don't meet
6 the minimum performance standards of the goal of two
7 stops per shift, you are going to be disciplined,
8 correct?

9 A He could --

10 Q That's what --

11 A -- be, yes.

12 Q -- you were telling him? And that you expected his
13 performance will improve, even though he was only one
14 stop short in December, correct?

15 A Correct.

16 Q Did you say -- did you answer "Correct"?

17 A Yes, I answered "Correct."

18 Q I'm sorry. And that you would be monitoring it closely
19 over the next several months, correct?

20 A Correct.

21 Q So he knew if he didn't make enough stops, traffic
22 stops, he could be disciplined, correct?

23 A Correct.

24 Q What -- the dailies, this mentions, Exhibit 14 mentions
25 dailies. What are dailies, is that the daily logs?

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(Discussion held off the record between Mr. Drew
and Ms. Boyd.)

MR. DREW: All right, I'm back on. I think -- I
just talked to Kathryn. I think the only records we got
were up to the 933 or something like that. So let me
just ask in general, and if there are more records, I'll
reserve the right to finish this, but --

MR. CALLAHAN: Yes, yes.

BY MR. DREW:

Q What kind of complaints about Officer Abbate are
you -- prior to March 20th, 2019, were you aware of?

A Well, and that might have been I misspoke, I don't know
of any specific citizen complaints about Officer Abbate,
we just review all reports on Officer Abbate and
reviewed things, so I don't know of any firsthand. We
can look back. Is there any personal citizen
complaints, I guess, is what I was --

Q Okay.

A -- referring to.

Q Yeah, you may have misunderstood that. I was --

A Yes.

Q -- only asking you about citizens --

A Yeah, and that was my fault. No, there's none that I am
aware of, no, he hasn't been there that long.

Q Okay. So I'm not sure I got an answer, but as far as

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1 this system of requiring two traffic stops per 10-hour
2 shift, was there any process as a part of the system to
3 review the nature of the stops sort of as a check and
4 balance as to whether people were getting stopped
5 appropriately and things of that nature?

6 A Not specifically associated to that, no.

7 Q Other than an email like Officer Abbate got saying that
8 your stops weren't sufficient enough -- well, let me ask
9 you this.

10 Was there a understanding or process that you would
11 get that type of email as in Exhibit -- I think it was
12 13 indicating that you were short?

13 A The officers would get stats at the end of the month put
14 up on all of the officers and where they were at.

15 Q Okay. And Exhibit 14, which is up here, like he was one
16 short, so if you were even just one short for the month,
17 would you get as a matter of process and procedure and
18 policy and custom a counseling memo?

19 A Sometimes, sometimes not we'd get a counseling memo,
20 sometimes they would just talk to the officer.

21 Q Were these statistics of traffic stops posted anywhere
22 for everybody to see how they were doing traffic
23 stop-wise?

24 A Yes.

25 Q And where were they posted?

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1 A In the hallway where our officers would be able to see
2 them.

3 Q So was there kind of a running competition to see who
4 got the most traffic stops in Rockford?

5 A No.

6 Q And as I understand your testimony, sir, the dailies are
7 the only thing that is used to monitor the traffic
8 stops; is that correct?

9 A For the officers to put down their stops, yes.

10 Q Okay. Would you -- and I guess, sir, you were -- on
11 February 4th when Exhibit 14, the counseling memo, came
12 out, that was right about the time you became chief,
13 correct?

14 A Just before.

15 Q Okay. Because you're still a lieutenant at that point
16 on the memo?

17 A Correct.

18 Q Did you have any -- I know you didn't meet with him
19 that's referenced in Exhibit 14. Did you meet with
20 Officer Abbate at any time about traffic stops or
21 anything between February 4th, 2019, when Exhibit 14,
22 the memo, came out, and March 20th, 2019, the incident
23 with Mr. King?

24 A I do not believe so, not that I recall.

25 Q And as you indicated, he was not disciplined in any way,

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officer shall not be required to issue a pre-determined or specified number of citations of state law or local ordinances, correct?

A Yes.

Q And you would, obviously, say that our rule of mandatory traffic stops gets around this law or doesn't apply to this law because we don't require them to make a citation, correct?

A Correct, we don't care about citations at all, we can have zero, it does not matter to us.

Q Now, does it matter, did it matter to you that forcing your officers to make a minimum of two traffic stops per shift may lead to stopping the most vulnerable, maybe the African-Americans, maybe the minorities, maybe not the well connected, so that they won't be disciplined?

A No.

Q Are you aware --

MR. CALLAHAN: (Inaudible) --

BY MR. DREW:

Q -- were you aware of concerns raised that State Police traffic quotas can lead to racial profiling, that the American Civil Liberties Union indicated that?

MR. CALLAHAN: Objection, form and foundation.

BY MR. DREW:

Q Were you aware that in 2016, the American Civil

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1 plate bright.

2 BY MR. CALLAHAN:

3 Q Okay. As to the whether Officer Abbate came -- strike
4 that.

5 As to whether Mr. King brought his automobile to a
6 complete stop or not, were you able to determine that
7 from your review of the videos?

8 A No.

9 Q Why is that?

10 A Because watching the video, as Officer Abbate's car is
11 moving, Mr. King's car is approaching the stop sign, his
12 brake lights come on, Abbate's car is still moving, and
13 it's hard to see if Mr. King's car is still moving,
14 whether it's a slow roll through the stop sign, because
15 I wasn't in a position to see like Officer Abbate was.

16 Q Okay. Is it common practice to rely on the observations
17 of the officer in the field when reviewing videos of
18 that nature?

19 A Yes.

20 MR. DREW: Objection, leading.

21 BY MR. CALLAHAN:

22 Q When you talked to the Prosecuting Attorney Becker about
23 the dismissal, did he talk to you about whether he
24 thought that it would be difficult to prove beyond a
25 reasonable doubt whether King brought his vehicle to a

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1 camera?

2 A Say -- repeat your question?

3 Q We have reviewed two camera sightings of showing what
4 the cameras showed. Is it your testimony that what the
5 camera showed was somehow distorted or not accurate?

6 A That's not what I'm saying. My perception of what I saw
7 from the video is -- can sometimes be different than the
8 officer that's actually sitting in the car live watching
9 the incident happen.

10 Q As far as you're aware, the camera was functioning and
11 accurately depicted what was in front of it when
12 Mr. King's car came to the stop sign, correct?

13 A Correct.

14 Q And in your investigation report, you didn't at that
15 time say anything about Officer Abbate was in a better
16 position to see the car and whether it stopped or not
17 than yourself watching the video; did you?

18 A Not specifically like that, no.

19 Q Not specifically or not generally like that either; did
20 you?

21 A Yes, I did. I said -- yes, I did. I said I didn't
22 know -- I couldn't tell whether the car came to a
23 complete stop or not and that's why what I just
24 explained, that's why I couldn't tell.

25 Q Did you tell that to Prosecutor Becker when Becker said,

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1 State of Michigan)

2 County of Oakland)

3 Certificate of Notary Public - Court Reporter

4
5 I certify that this transcript is a complete, true, and
6 correct record of the testimony of the witness held in this
7 case.

8
9 I also certify that prior to taking this deposition, the
10 witness was duly sworn or affirmed to tell the truth.

11
12 I further certify that I am not a relative or an
13 employee of or an attorney for a party; and that I am not
14 financially interested, directly or indirectly, in the
15 matter.

16
17 I hereby set my hand this 11th day of January, 2022.

18
19
20 *Elizabeth G. LaBarge*

21
22 Elizabeth G. LaBarge, CSR-4467

23 Certified Shorthand Reporter

24 Notary Public, Wayne County, Michigan